

Application for Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the
Western District of Washington

In the Matter of the Search of:

Enrique Martinez Lopez
(identify the person to be searched with
reasonable particularity)

Case No. MJ20-5005

APPLICATION FOR A SEARCH WARRANT FOR BLOOD SAMPLE

I, Timothy Johnson, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that a sample of blood consisting of one or more tubes or vials should be taken from the following person:

Enrique Martinez Lopez (identify the person to be searched with reasonable particularity) located in the Western District of Washington and that this blood sample is evidence of the following crime or crimes.

- Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R. § 4.23 or 38 C.F.R. § 1.218
- Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- Vehicular Assault in violation of RCW 46.61.524 and 18 U.S.C. § 13
- _____

This application is based on the facts set forth in the attached affidavit which is incorporated herein as if fully set forth.

Pursuant to Fed. R. Crim. P. 4.1 & 41(d)(3), this warrant is presented:

- By reliable electronic means.
- Telephonically (and recorded).



Timothy Johnson
Supervisory Police Officer, JBML

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on this 13th day of January, 2020.



THE HON. BRIAN A. TSUCHIDA
UNITED STATES MAGISTRATE JUDGE

1 STATE OF WASHINGTON)
2) ss
3 COUNTY OF KING)

4 **AFFIDAVIT OF TIMOTHY JOHNSON**

5 **AFFIANT BACKGROUND**

6 1. I have served as a law enforcement officer for the past 18 years. My
7 training and experience relevant to the investigation discussed below includes the
8 following:

9 Basic Training at the Federal Law Enforcement Training Center
10 Basic Law Enforcement Academy at the Washington Criminal
11 Justice Training Commission
12 Standardized Field Sobriety Testing
13 Advanced Roadside Impaired Driving Enforcement Training

15 **CURRICULUM VITAE**

16 I, Supervisory Police Officer Timothy Johnson, have served in a law enforcement
17 capacity as both a Military Police Officer and Department of the Army Civilian Police
18 Officer with a combined total of 18 years' law enforcement experience. My training and
19 experience regarding investigations of the listed crime(s) include the following: Basic law
20 enforcement training with the United States Army Military Police Advanced Individual
21 Training and Department of the Army Civilian Police Academy, Training in Standardized
22 Field Sobriety Testing to National Highway Traffic Safety Administration (NHTSA)
23 Standards, Continuing law enforcement training with Northwestern University obtaining
24 (NHTSA) instructor certification for Standardized Field Sobriety Testing (SFST), and the
25 International Association of Chiefs of Police (IACP) Advanced Roadside Impaired Driving
26
27
28

1 Enforcement (A.R.I.D.E.) course. I am currently certified as an operator for the breath-
 2 testing instrument in the State of Washington. Through my past training and experience I
 3 have learned to recognize signs of alcohol and/or drug impairment in persons and to
 4 determine whether or not a person's ability to operate a motor vehicle safely is impaired.
 5 I am also aware from my training and experience that most drugs once ingested including
 6 alcohol, will be detectable in a person's blood. I am also trained to recognize the signs and
 7 evidence of an alcohol and / or drug related collision. I have received training in collision
 8 investigation while attending the 3 week Traffic Management Collision Investigation
 9 (T.M.C.I) course.

10 The entire incident I am about to describe occurred in the jurisdictional boundaries
 11 of Joint Base Lewis-McChord, Washington.

16 **SUMMARY OF PROBABLE CAUSE**

17 1. As a result of my duties I am familiar with the jurisdictional boundaries of
 18 Joint Base Lewis-McChord, Washington. The incident described below occurred within
 19 these jurisdictional boundaries, an area within the special maritime and territorial
 20 jurisdiction of the United States as defined in 18 U.S.C. § 7.

21 2. The initial contact with MARTINEZ LOPEZ, Enrique occurred on 13
 22 January 2020, at approximately 0321 Hours at Joint Base Lewis-McChord, Washington.

23 3. The facts supporting the initial contact with MARTINEZ LOPEZ, Enrique
 24 are as follows: Mr. MARTINEZ LOPEZ attempted to gain access to Joint Base Lewis
 25 McChord, Washington through the Madigan Army Medical Center Gate, via Exit 122 off
 26 of Interstate 5 while driving a 2016 Chevrolet Impala WA/BAX9557. Military Police
 27 Gate Guard Specialist PRASTER approached Mr. MARTINEZ LOPEZ who was seated
 28 in the driver's seat and appeared disoriented and was unaware of his location. Military
 Police Gate Guard Specialist PRASTER observed an open container of Budweiser beer

1 sitting in a cup holder in the center console. Upon my arrival, I observed Mr.
2 MARTINEZ LOPEZ exit his vehicle, which he was leaning against for support. I asked
3 Mr. MARTINEZ LOPEZ to walk towards the front of his vehicle. While walking, Mr.
4 MARTINEZ LOPEZ was observed stumbling and swaying from left to right and front to
5 back. I asked Mr. MARTINEZ LOPEZ if he would be willing to submit to a series of
6 Standardized Field Sobriety Tests to determine if he were safe to drive. I detected an
7 extreme odor on an alcoholic beverage emanating from his breath and person. Mr.
8 MARTINEZ LOPEZ voluntarily submitted to Standardized Field Sobriety Tests which I
9 administered and detected extreme signs of impairment. I asked Mr. MARTINEZ
10 LOPEZ if he would be willing to submit to a Preliminary Breath Test, which he refused
11 to do. Mr. MARTINEZ LOPEZ was placed under arrest and transported to my patrol
12 vehicle.

13 4. The facts supporting my belief that Mr. MARTINEZ LOPEZ is under the
14 influence

15 of intoxicating liquor, marijuana, or any drug and/or is affected by intoxicating liquor,
16 marijuana, or any drug are as follows: After Mr. MARTINEZ LOPEZ was placed in my
17 patrol vehicle, he was advised of his legal rights which he stated he did not understand
18 and requested a translator. Mr. MARTINEZ LOPEZ was informed we would be
19 providing him with an interpreter. Mr. MARTINEZ LOPEZ kicked his feet out of the
20 patrol vehicle, preventing the door to be closed. Mr. MARTINEZ LOPEZ refused
21 several commands by myself and other JBLM Police Officers to place his feet into the
22 patrol vehicle. Mr. MARTINEZ LOPEZ was removed from the vehicle in order to
23 restrain his legs. Once out of the vehicle, Mr. MARTINEZ LOPEZ became combative,
24 throwing his shoulders to the left and right towards myself and other JBLM Police
25 Officers. Mr. MARTINEZ LOPEZ was taken to the ground using minimal force, where
26 leg restraints were applied. Mr. MARTINEZ LOPEZ was transported to the JBLM
27 Police McChord Field substation, where he was placed in a detention cell due to his
28 uncooperative and combative behavior. Mr. MARTINEZ LOPEZ immediately began

1 repeatedly kicking the door to the detention cell. Military Police Officer Specialist
 2 ROJAS advised Mr. MARTINEZ LOPEZ of his legal rights from the Washington State
 3 DUI Arrest Report, which Mr. MARTINEZ LOPEZ stated he did not understand and
 4 wished to speak to an attorney. Military Police Specialist ROJAS advised Mr.
 5 MARTINEZ LOPEZ of the Implied Consent from the Washington State DUI Arrest
 6 Report, where Mr. MARTINEZ LOPEZ stated he refused to provide evidentiary breath
 7 samples. JBLM Police contacted Federal Public Defender Greg Geist. Mr. MARINEZ
 8 LOPEZ spoke with Federal Public Defender Greg Geist, where Mr. MARTINEZ LOPEZ
 9 stated he did not understand Federal Public Defender Greg Geist. Mr. MARTINEZ
 10 LOPEZ did not show any difficulty in understanding or speaking English when
 11 communicating with me prior to his arrest.

12 **5. MARTINEZ LOPEZ, Enrique**

- 13 Has refused to take a breath Alcohol test on an instrument approved
 14 by the State Toxicologist or a federal agency for such breath testing.
- 15 Is being treated in a hospital, clinic, doctor's office, emergency
 16 medical vehicle, ambulance, or other similar facility, or is at a
 17 location that lacks an instrument approved by the State Toxicologist
 18 or a federal agency for performing such breath testing, and has
 19 refused to submit to a blood test.
- 20 Is incapable due to physical injury, physical incapacity, or other
 21 physical limitation of submitting to a breath alcohol test, and the
 22 defendant has refused to submit to a blood test.
- 23 Has refused to submit to a blood test at the request of the
 24 undersigned.
- 25 Was not offered an opportunity to take a breath alcohol test on an
 26 instrument approved by the State Toxicologist or a federal agency
 27 for such breath testing because:
 28 The available instrument is currently out of order

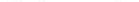
The individual does not speak English and the implied consent warnings are not available in a language that the defendant understands

Submitted to a breath test on an instrument approved by the State Toxicologist or a federal agency for such breath testing but the breath alcohol concentration reading of _____ is not consistent with the defendant's level of impairment suggesting that the defendant is under the influence of a drug.

I certify (or declare) under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated this 13th day of January, 2020.

TIMOTHY JOHNSON, Affiant
Supervisory Police Officer, JBML

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit on 13th day of January, 2020. 

THE HON. BRIAN A. TSUCHIDA
UNITED STATES MAGISTRATE JUDGE